



City of New Albany

"The Fair and Friendly City"

Office of the City Attorney

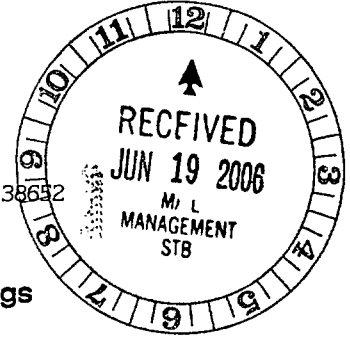
112 East Bankhead Street, Suite A • Post Office Drawer 730 • New Albany, Mississippi 38632
Phone (662) 534-6326 • Fax (662) 534-5205

June 12, 2006

ENTERED
Office of Proceedings

JUN 19 2006

Part of
Public Record



Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St. NW, Rm 711
Washington, DC 20423

Re: MISSISSIPPI TENNESSEE HOLDINGS, LLC JOINT PETITION FOR EXEMPTION
FROM 49 U.S.C. SECTION 10903 FOR ABANDONMENT AND DISCONTINUANCE OF SERVICE
Abandonment Union, Pontotoc, and Chickasaw Counties, Mississippi AB-868X and AB-869X

Dear Mr. Williams:

This comment should be treated as a protest or a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the City of New Albany, which is a municipal government located in the service area of the rail corridor that runs between the Cities of New Albany and Houston, Mississippi, which is hereinafter referred to as "Commenter".

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate of Notice of Interim Trail Use rather than an outright abandonment authorization between the cities of New Albany and Houston, Mississippi.

A. Public Use Condition

Commenter requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the rail corridor follows near the path of the historic Chickasaw Trail and the corridor would make an excellent recreational trail and conversion of the property to trail use is in accordance with local plans. In addition, the corridor provides important wildlife habitat and greenspace and its preservation as a recreational trail is consistent with that end. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time because we have not had an opportunity to assemble a committee of local elected officials from the areas through which this rail corridor passes to review title information, complete a trail plan or commence negotiations with the carrier.
2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period

FILED FEE WAIVED

Mayor: Tim Kent

Ward 1 Alderman: Jeff Olson • Ward 2 Alderman: Larry Sanford

Ward 3 Alderman: Tommie Beasley • Ward 4 Alderman: Bill Tucker • Alderman-At-Large: Dan Skinner

City Clerk: Anne Neal • City Attorney: Robert M. Carter

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requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, Commenter also makes the following stipulation: We understand that this railbanking request is not a contract and does not commit us to acquire any property or to accept any liability. This request simply invites negotiation with the railroad company under the umbrella of railbanking. Although part of this filing includes a "Statement of Willingness to Assume Financial Responsibility", we are not accepting any financial responsibility, but merely expressing an interest in possibly doing so.

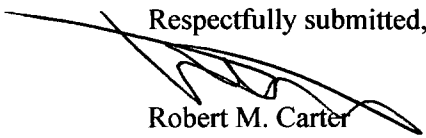
In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. Section 1247(d), and 49 C.F.R. Section 1152.29, the City of New Albany is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by MISSISSIPPI TENNESSEE HOLDINGS, LLC and operated by MISSISSIPPI TENNESSEE RAILROAD, LLC.

The property extends from railroad milepost 324.2 south of the City of New Albany, Mississippi (approximately 1/4 mile south of Highway 78 to railroad milepost 281 south of the City of Houston, Mississippi a distance of 43.2 miles. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No. AB-868X and AB-869X. A map depicting the right of way is attached.

The City of New Albany acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of this right-of-way for rail service.

By my signature below, I certify service upon MISSISSIPPI TENNESSEE HOLDINGS, LLC, 102 Willow Drive, P. O. Box 99, O'Fallon, IL 62269 by U. S. Mail, postage prepaid, first class this 12th day of June, 2006.

Respectfully submitted,



Robert M. Carter
Attorney for the City of New Albany,
as authorized by the Mayor and Board of
Aldermen

RMC/psy

cc: Mississippi Tennessee Holdings, LLC
102 Willow Drive
P. O. Box 99
O'Fallon, IL 62269